

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 14, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:05KD-267

Kauai

Grant of Perpetual, Non-Exclusive Easement to Tonia B. Vyeniello and Louis C. Green, trustees for the Green-Vyeniello Revocable Trust for Access and Utility Purposes, Kapaa Homesteads 2nd Series, Kawaihau, Kauai, Tax Map Key: (4) 4-4-003:through parcel 85, over State Ditch 7.

APPLICANT:

Tonia B. Vyeniello and Louis C. Green, trustees for the Green-Vyeniello Revocable Trust, whose mailing address is 10545 Feller Cove, San Diego, California 92126.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kawaihau situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-4-003: through parcel 85, over State Ditch 7, as shown on the attached map labeled Exhibit A.

AREA:

0.005 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: NO

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CURRENT USE STATUS:

Encumbered by RP S-7310 to East Kauai Water Users Cooperative, for the operation, repair and maintenance of irrigation water diversions and transportation infrastructure system including the right to divert, store, take, draw off, conduct away and dispose thereof Government owned water from streams & rivers in the drainage area for irrigation purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment.
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

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REMARKS:

Through subdivision process of portion of Grant 7286 to John B. Souza, access to back portion of Lot 4 can only be obtained by crossing irrigation State Ditch 7. Applicant is requesting an access and utility easement designated as Easement "AU-1" (0.005 acre) on surveyor map prepared by Roger M. Caires, licensed professional land surveyor, as shown on attached map labeled "Exhibit B." Easement "AU-1" affects a portion of State Ditch 7, which lies within Lot 4, in favor of Lot 4 (Tax Map Key: (4) 4-4-003:085) owned by applicant.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Agency comments were solicited from:

County of Kauai, Planning Dept.:	No Objections
County of Kauai, Public Works:	No Objections
County of Kauai, Water Dept.:	No Comments
State DOH:	No Response
DLNR-Historic Preservation:	"No historic properties will be affected"
Office of Hawaiian Affairs:	No Response
East Kauai Water User's Cooperative:	No Response

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Tonia B. Vyeniello and Louis C. Green, trustees for the Green-Vyeniello Revocable Trust, covering the subject area for Access and Utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form.
  - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 4-4-003:085, provided that when the easement is sold, assigned, conveyed, or otherwise

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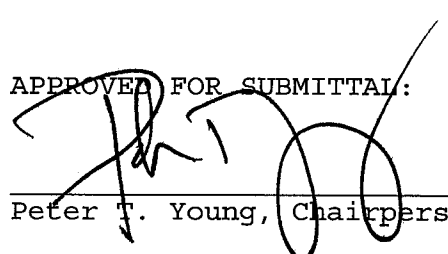
transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;

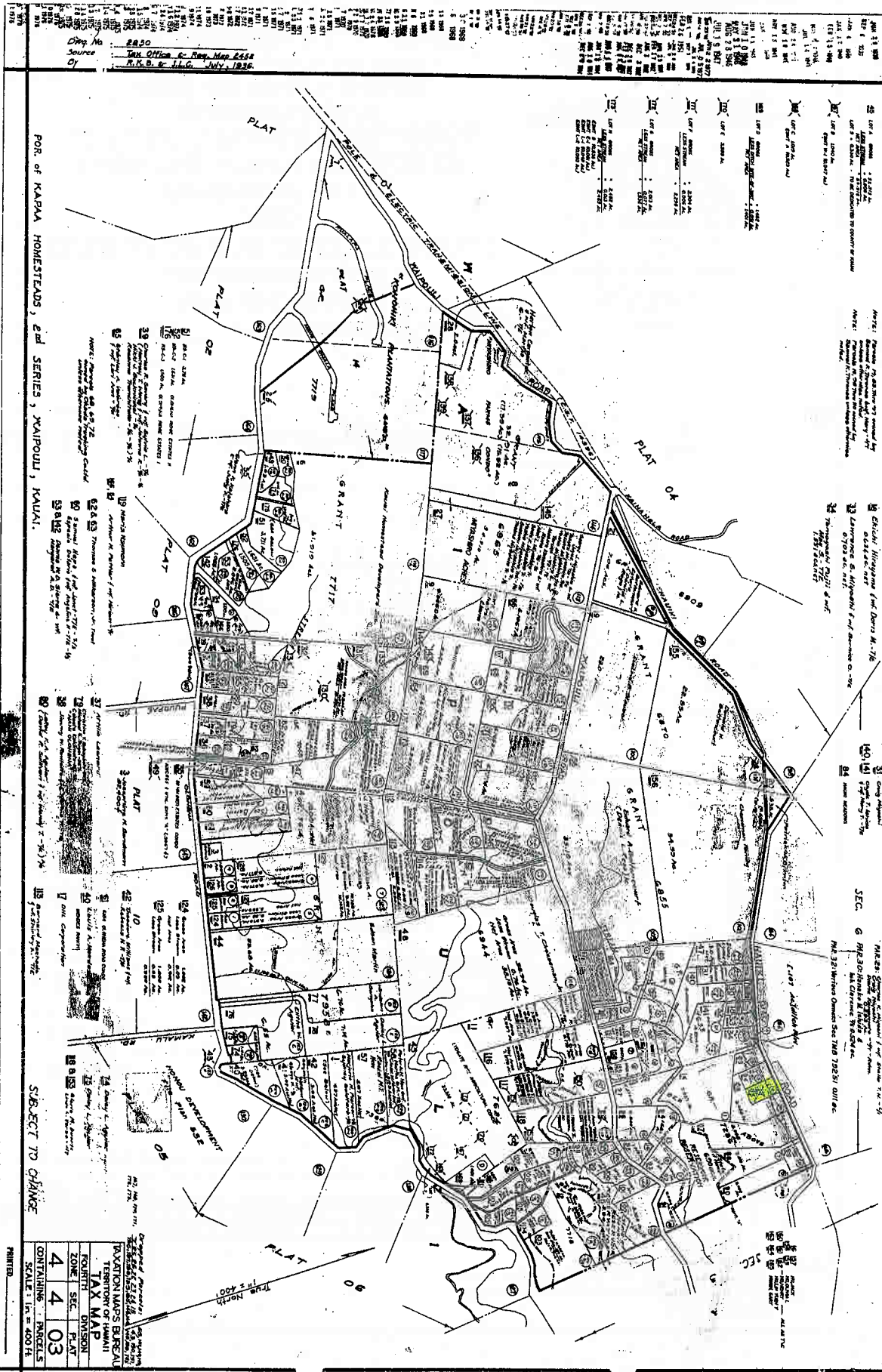
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Joanne E. McComber, Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson



"Exhibit A"

FOR. OF KAPPA HOMESTEADS, 2<sup>nd</sup> SERIES, KAIPOULI, KAUAI.

SUBJECT TO CHANGE

Original - Honolulu  
No. 86-07-23 Sub. 1A  
Tax Map No. 193-10-00000-103  
Volume 193

TAXATION MAPS BUREAU  
TERRITORY OF HAWAII  
**TAX MAP**

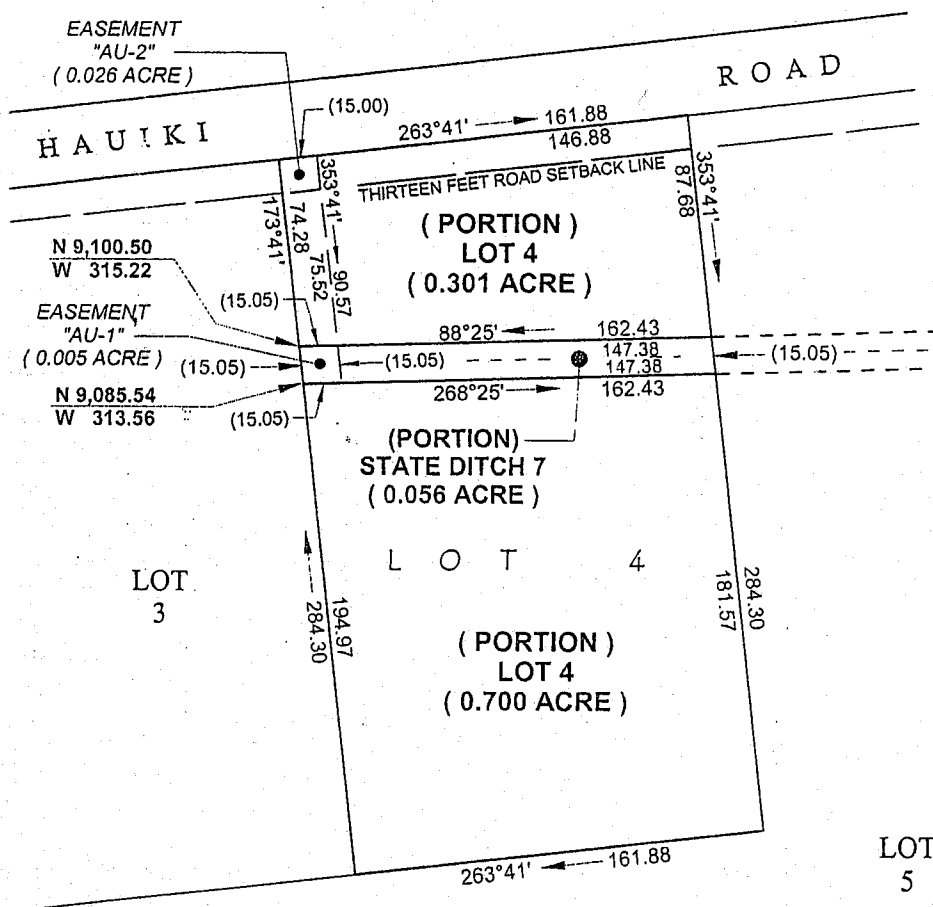
FOURTH	DIVISION	
ZONE	SEC.	PLAT
4	4	03

CONTAINING PARCELS

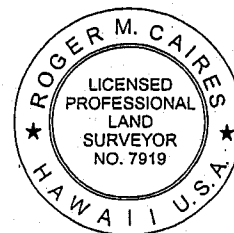
SCALE : 1 in. = 400 ft.

NOTES:

1. Information on adjoining ownership was obtained from most recent available Tax Map Book.
2. All coordinates based on Government Survey Triangulation Station "NONOU".
3. Easement "AU-1" affecting a portion of State Ditch 7 in favor of Lot 4 for access and utility Purposes. ( 0.005 Acres )
4. Easement "AU-2" affecting the North portion of Lot 4 in favor of the South portion of Lot 4 For access and utility purposes. ( 0.026 Acres )



MAP SHOWING  
EASEMENT "AU-1"  
OVER A PORTION OF STATE DITCH 7  
AND  
EASEMENT "AU-2"  
OVER THE NORTH PORTION OF  
LOT 4 OF THRONAS SUBDIVISION  
BEING A PORTION OF  
GRANT 7286 TO JOHN B. SOUZA  
KAPAA HOMESTEADS, 2nd SERIES  
KAPAA, KAWAIHAU, KAUAI, HAWAII  
Date: January 25, 2005  
Tax Map Key: (4th) 4 - 4 - 003: 085  
Area: 1.057 Acre



THIS WORK WAS PREPARED BY ME  
OR UNDER MY SUPERVISION.

*Roger M. Caïres*  
ROGER M. CAIRES  
Licensed Professional Land Surveyor  
Certificate Number 7919  
Expires 04/30/06